

1 STEVEN H. GURNEE, ESQ. SB# 66056
2 DAVID M. DANIELS, ESQ. SB# 170315
3 NICHOLAS P. FORESTIERE, SB# 125118
4 JOHN A. MASON, ESQ. SB# 166996
5 GURNEE & DANIELS LLP
6 2240 Douglas Boulevard, Suite 150
7 Roseville, CA 95661-3805
8 Telephone (916) 797-3100
9 Facsimile (916) 797-3131

10 Attorneys for Defendants

11 ALDERWOODS GROUP, INC., PAUL
12 HOUSTON, SERVICE CORPORATION
13 INTERNATIONAL, SCI FUNERAL AND
14 CEMETERY PURCHASING COOPERATIVE,
15 INC., SCI EASTERN MARKET SUPPORT
16 CENTER, L.P., SCI WESTERN MARKET
17 SUPPORT CENTER, L.P. and SCI HOUSTON
18 MARKET SUPPORT CENTER, L.P.

19
20
21 UNITED STATES DISTRICT COURT
22
23 NORTHERN DISTRICT OF CALIFORNIA

24 WILLIAM HELM, et al., on behalf of) **CASE NO. 3:08-cv-01184 SI**
25 themselves and all other employees and former)
26 employees similarly situated,)
27 Plaintiffs,) **[PROPOSED] ORDER STIPULATION OF**
28 vs.) **DISMISSAL**
ALDERWOODS GROUP, INC. et al.)
Defendants.)

Pursuant to the Stipulation of counsel and good cause appearing, the Court orders as follows:

1. Pursuant to Fed. R. Civ. P. 41(a), Plaintiffs voluntarily dismiss their claims against Service Corporation International, SCI Funeral and Cemetery Purchasing Cooperative, Inc., SCI [PROPOSED] ORDER STIPULATION OF DISMISSAL
Case No.: 3:08-CV-01184 SI

1 Eastern Market Support Center, L.P., SCI Western Market Support Center, L.P., SCI Houston
 2 Market Support Center, L.P. and Paul A. Houston (collectively “non-Alderwoods Defendants”)
 3 without prejudice.

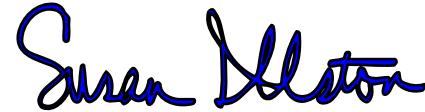
4 2. If Alderwoods is found liable for damages in this action and all avenues of appeal
 5 have been exhausted and Alderwoods is required but unable to pay such damages, Plaintiffs may
 6 amend the Complaint in this action, even after jury verdict and appeals therefrom, to allege that
 7 SCI, SCI Funeral and Cemetery Purchasing Cooperative, Inc., SCI Eastern Market Support Center,
 8 L.P., SCI Western Market Support Center, L.P., SCI Houston Market Support Center, L.P. and
 9 Paul A. Houston are successors in interest to Alderwoods and liable to pay the damages, attorney’s
 10 fees, and costs awarded against Alderwoods. The parties would be afforded a reasonable time to
 11 conduct discovery on this issue.

12 3. Defendants do not waive any defenses or arguments that may be available to them,
 13 except that Defendants will not raise any defenses of timeliness or jurisdiction based on time that
 14 passes from entry of this Stipulation through the deadline for amending the Complaint as set forth
 15 below; and Plaintiffs do not waive any arguments that any claims against Defendants relate back to
 16 the initial filing of the Complaint.

17 4. Any amendment to the Complaint under this Stipulation and Order shall be filed
 18 within 30 days after the date that Alderwoods fails to pay any judgment that stands against it after
 19 all avenues of appeal have been exhausted.

20 5. Plaintiffs withdraw their motion to compel pertaining to personal jurisdiction
 21 discovery (Docket No. 128), as the motion is rendered moot by Plaintiffs’ voluntary dismissal of
 22 their claims against the non-Alderwoods Defendants in this action. Plaintiffs’ withdrawal of their
 23 motion to compel in the instant action, however, has no impact upon their motion to compel also
 24 filed in the related action *Bryant, et al. v. SCI, et al.*, Case No. 08-1190-SI (Docket No. 117),
 25 which is unaffected by the instant Stipulation and Order and remains pending before this Court.

1 **IT IS SO ORDERED:**
2
3



The Honorable Susan Illston

4 **AGREED TO:**
5
6

/s/ Annette Gifford
Dolin, Thomas & Solomon LLP
693 East Avenue
7 Rochester, New York 14607
Telephone: (585) 272-0540
8
9

Attorneys for Plaintiffs

/s/ Nicholas P. Forestiere
Gurnee & Daniels LLP
2240 Douglas Boulevard, Suite 150
Roseville, California 95661
Telephone: (916) 797-3100
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Attorneys for Defendants

[PROPOSED] ORDER STIPULATION OF DISMISSAL
Case No.: 3:08-CV-01184 SI